

AMENDED IN SENATE APRIL 11, 2012

**SENATE BILL**

**No. 986**

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**Introduced by Senator Dutton**

January 31, 2012

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An act to amend Sections 34177 and 34180 of the Health and Safety Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 986, as amended, Dutton. Redevelopment: bond proceeds.

Existing law—~~dissolves~~ *dissolved* redevelopment agencies and community development agencies, as of February 1, 2012, and ~~designates~~ *provides for the designation of* successor agencies, as defined. Existing law requires that successor entities perform certain duties, including, among others, remitting unencumbered funds of that agency to the county auditor-controller, and overseeing the use of bond proceeds. Existing law requires each successor agency to have an oversight board that is composed of 7 members who meet certain qualifications. Existing law requires the oversight board to approve certain actions of the successor agency.

This bill would ~~provide that all bond proceeds that were generated by the former redevelopment agency shall be deemed to be encumbered and would prohibit a successor agency from remitting these proceeds to the county auditor-controller~~ *require that unencumbered balances of funds that are derived from tax exempt bond proceeds be used in accordance with the requirements of this bill*. This bill would also require that the proceeds of bonds issued by a former redevelopment agency ~~must on or before December 31, 2010~~, be used by the successor agency for the purposes for which the bonds were sold pursuant to an

enforceable obligation, as defined, that was entered into either by the former redevelopment agency prior to its dissolution, or is entered into by the successor agency by December 31, 2014. This bill would also provide that if ~~an enforceable obligation is not entered into by that time~~ *the bond proceeds are not subject to an enforceable obligation*, or if the purpose for which the bonds were sold can no longer be achieved, then the bond proceeds shall be used to defease the bonds or to purchase outstanding bonds on the open market for cancellation.

This bill would also ~~require~~ *authorize* the oversight board to approve of the establishment of an enforceable obligation with respect to bond proceeds. ~~This bill would prohibit the oversight board from disapproving the establishment of an enforceable obligation with respect to bond proceeds if certain requirements are met, including, among others, if that obligation is reasonably in furtherance of the purposes for which the bonds were sold.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 34177 of the Health and Safety Code is  
2 amended to read:  
3 34177. Successor agencies are required to do all of the  
4 following:  
5 (a) Continue to make payments due for enforceable obligations.  
6 (1) On and after ~~October 1, 2011~~, *February 1, 2012*, and until  
7 a Recognized Obligation Payment Schedule becomes operative,  
8 only payments required pursuant to an enforceable obligations  
9 payment schedule shall be made. The initial enforceable obligation  
10 payment schedule shall be the last schedule adopted by the  
11 redevelopment agency under Section 34169. However, payments  
12 associated with obligations excluded from the definition of  
13 enforceable obligations by paragraph (2) of subdivision (e) of  
14 Section 34171 shall be excluded from the enforceable obligations  
15 payment schedule and be removed from the last schedule adopted  
16 by the redevelopment agency under Section 34169 prior to the  
17 successor agency adopting it as its enforceable obligations payment  
18 schedule pursuant to this subdivision. The enforceable obligation

1 payment schedule may be amended by the successor agency at  
2 any public meeting and shall be subject to the approval of the  
3 oversight board as soon as the board has sufficient members to  
4 form a quorum.

5 (2) The Department of Finance and the Controller shall each  
6 have the authority to require any documents associated with the  
7 enforceable obligations to be provided to them in a manner of their  
8 choosing. Any taxing entity, the department, and the Controller  
9 shall each have standing to file a judicial action to prevent a  
10 violation under this part and to obtain injunctive or other  
11 appropriate relief.

12 (3) Commencing on ~~January~~ *May* 1, 2012, only those payments  
13 listed in the Recognized Obligation Payment Schedule may be  
14 made by the successor agency from the funds specified in the  
15 Recognized Obligation Payment Schedule. In addition,  
16 commencing ~~January~~ *May* 1, 2012, the Recognized Obligation  
17 Payment Schedule shall supersede the Statement of Indebtedness,  
18 which shall no longer be prepared nor have any effect under the  
19 Community Redevelopment Law.

20 (4) Nothing in the act adding this part is to be construed as  
21 preventing a successor agency, with the prior approval of the  
22 oversight board, as described in Section 34179, from making  
23 payments for enforceable obligations from sources other than those  
24 listed in the Recognized Obligation Payment Schedule.

25 (5) From ~~October 1, 2011~~, *February 1, 2012*, to July 1, 2012,  
26 a successor agency shall have no authority and is hereby prohibited  
27 from accelerating payment or making any lump-sum payments  
28 that are intended to prepay loans unless such accelerated  
29 repayments were required prior to the effective date of this part.

30 (b) Maintain reserves in the amount required by indentures,  
31 trust indentures, or similar documents governing the issuance of  
32 outstanding redevelopment agency bonds.

33 (c) Perform obligations required pursuant to any enforceable  
34 obligation.

35 (d) Remit unencumbered balances of redevelopment agency  
36 funds to the county auditor-controller for distribution to the taxing  
37 entities, including, but not limited to, the unencumbered balance  
38 of the Low and Moderate Income Housing Fund of a former  
39 redevelopment agency. In making the distribution, the county  
40 auditor-controller shall utilize the same methodology for allocation

1 and distribution of property tax revenues provided in Section  
2 34188. ~~For purposes of this subdivision, bond proceeds of the~~  
3 ~~redevelopment agency shall be deemed to be encumbered, and~~  
4 ~~therefore the successor agency shall not remit those funds to the~~  
5 ~~county auditor-controller.~~ *Notwithstanding the requirements of*  
6 *this subdivision, if the unencumbered balance of funds is derived*  
7 *from tax exempt bond proceeds, those balances shall be used in*  
8 *accordance with the requirements of subdivision (i).*

9 (e) Dispose of assets and properties of the former redevelopment  
10 agency as directed by the oversight board; provided, however, that  
11 the oversight board may instead direct the successor agency to  
12 transfer ownership of certain assets pursuant to subdivision (a) of  
13 Section 34181. The disposal is to be done expeditiously and in a  
14 manner aimed at maximizing value. Proceeds from asset sales and  
15 related funds that are no longer needed for approved development  
16 projects or to otherwise wind down the affairs of the agency, each  
17 as determined by the oversight board, shall be transferred to the  
18 county auditor-controller for distribution as property tax proceeds  
19 under Section 34188.

20 (f) Enforce all former redevelopment agency rights for the  
21 benefit of the taxing entities, including, but not limited to,  
22 continuing to collect loans, rents, and other revenues that were due  
23 to the redevelopment agency.

24 (g) Effectuate transfer of housing functions and assets to the  
25 appropriate entity designated pursuant to Section 34176.

26 (h) Expeditiously wind down the affairs of the redevelopment  
27 agency pursuant to the provisions of this part and in accordance  
28 with the direction of the oversight board.

29 (i) Continue to oversee development of properties until the  
30 contracted work has been completed or the contractual obligations  
31 of the former redevelopment agency can be transferred to other  
32 parties. Bond proceeds *derived from bonds sold on or before*  
33 *December 31, 2010*, shall be used for the purposes for which the  
34 bonds were sold, if and to the extent that the successor agency is  
35 either performing an obligation required pursuant to any  
36 enforceable obligation entered into by the former redevelopment  
37 agency, or is performing an enforceable obligation entered into by  
38 the successor agency on or before December 31, 2014, to fulfill  
39 the purposes for which the bonds were sold by the dissolved  
40 redevelopment agency; *provided, however, that this section shall*

1 *not be interpreted to grant to a successor agency the power of*  
2 *eminent domain. Any amount of bond proceeds derived from bonds*  
3 *sold on or before December 31, 2010, not subject to an enforceable*  
4 *obligation as of January 1, 2015, shall be used to defease the bonds*  
5 *or to purchase outstanding bonds on the open market for*  
6 *cancellation. If the purposes for which the bonds that were sold*  
7 *by the dissolved redevelopment agency on or before December*  
8 *31, 2010, can no longer be achieved, then the proceeds shall be*  
9 *used to defease the bonds or to purchase outstanding bonds on the*  
10 *open market for cancellation.*

11 (j) Prepare a proposed administrative budget and submit it to  
12 the oversight board for its approval. The proposed administrative  
13 budget shall include all of the following:

14 (1) Estimated amounts for successor agency administrative costs  
15 for the upcoming six-month fiscal period.

16 (2) Proposed sources of payment for the costs identified in  
17 paragraph (1).

18 (3) Proposals for arrangements for administrative and operations  
19 services provided by a city, county, city and county, or other entity.

20 (k) Provide administrative cost estimates, from its approved  
21 administrative budget that are to be paid from property tax revenues  
22 deposited in the Redevelopment Property Tax Trust Fund, to the  
23 county auditor-controller for each six-month fiscal period.

24 (l) (1) Before each six-month fiscal period, prepare a  
25 Recognized Obligation Payment Schedule in accordance with the  
26 requirements of this paragraph. For each recognized obligation,  
27 the Recognized Obligation Payment Schedule shall identify one  
28 or more of the following sources of payment:

29 (A) Low and Moderate Income Housing Fund.

30 (B) Bond proceeds.

31 (C) Reserve balances.

32 (D) Administrative cost allowance.

33 (E) The Redevelopment Property Tax Trust Fund, but only to  
34 the extent no other funding source is available or when payment  
35 from property tax revenues is required by an enforceable obligation  
36 or by the provisions of this part.

37 (F) Other revenue sources, including rents, concessions, asset  
38 sale proceeds, interest earnings, and any other revenues derived  
39 from the former redevelopment agency, as approved by the  
40 oversight board in accordance with this part.

(2) A Recognized Obligation Payment Schedule shall not be deemed valid unless all of the following conditions have been met:

(A) A draft Recognized Obligation Payment Schedule is prepared by the successor agency for the enforceable obligations of the former redevelopment agency by ~~November 1, 2011~~ *March 1, 2012*. From October 1, 2011, to July 1, 2012, the initial draft of that schedule shall project the dates and amounts of scheduled payments for each enforceable obligation for the remainder of the time period during which the redevelopment agency would have been authorized to obligate property tax increment had that redevelopment agency not been dissolved, and shall be reviewed and certified, as to its accuracy, by an external auditor designated pursuant to Section 34182.

(B) The certified Recognized Obligation Payment Schedule is submitted to and duly approved by the oversight board.

(C) A copy of the approved Recognized Obligation Payment Schedule is submitted to the county auditor-controller and both the Controller's office and the Department of Finance and be posted on the successor agency's Internet Web site.

(3) The Recognized Obligation Payment Schedule shall be forward looking to the next six months. The first Recognized Obligation Payment Schedule shall be submitted to the Controller's office and the Department of Finance by ~~December 15, 2011~~, *April 15, 2012*, for the period of January 1, 2012, to June 30, 2012, inclusive. Former redevelopment agency enforceable obligation payments due, and reasonable or necessary administrative costs due or incurred, prior to January 1, 2012, shall be made from property tax revenues received in the spring of 2011 property tax distribution, and from other revenues and balances transferred to the successor agency.

SEC. 2. Section 34180 of the Health and Safety Code is amended to read:

34180. All of the following successor agency actions shall first be approved by the oversight board:

(a) The establishment of new repayment terms for outstanding loans where the terms have not been specified prior to the date of this part.

(b) Refunding of outstanding bonds or other debt of the former redevelopment agency by successor agencies in order to provide

1 for savings or to finance debt service spikes; provided, however,  
2 that no additional debt is created and debt service is not accelerated.

3 (c) Setting aside of amounts in reserves as required by  
4 indentures, trust indentures, or similar documents governing the  
5 issuance of outstanding redevelopment agency bonds.

6 (d) Merging of project areas.

7 (e) Continuing the acceptance of federal or state grants, or other  
8 forms of financial assistance from either public or private sources,  
9 where assistance is conditioned upon the provision of matching  
10 funds, by the successor entity as successor to the former  
11 redevelopment agency, in an amount greater than 5 percent.

12 (f) (1) If a city, county, or city and county wishes to retain any  
13 properties or other assets for future redevelopment activities,  
14 funded from its own funds and under its own auspices, it must  
15 reach a compensation agreement with the other taxing entities to  
16 provide payments to them in proportion to their shares of the base  
17 property tax, as determined pursuant to Section 34188, for the  
18 value of the property retained.

19 (2) If no other agreement is reached on valuation of the retained  
20 assets, the value will be the fair market value as of the 2011  
21 property tax lien date as determined by the county assessor.

22 (g) Establishment of the Recognized Obligation Payment  
23 Schedule.

24 (h) A request by the successor agency to enter into an agreement  
25 with the city, county, or city and county that formed the  
26 redevelopment agency that it is succeeding.

27 (i) A request by a successor agency or taxing entity to pledge,  
28 or to enter into an agreement for the pledge of, property tax  
29 revenues pursuant to subdivision (b) of Section 34178.

30 (j) The establishment of an enforceable obligation with respect  
31 to bond proceeds *from bonds sold on or before December 31, 2010,*  
32 pursuant to subdivision (i) of Section 34177. ~~However, the The~~  
33 ~~oversight board shall not disapprove~~ *may approve* the establishment  
34 of an enforceable obligation with respect to bond proceeds if ~~that~~  
35 *both of the following conditions are met:*

36 (1) *The obligation is reasonably in furtherance of the purposes*  
37 *for which the bonds were sold.*

38 (2) *The obligation is consistent with one or more of the*  
39 *following:*

1 (A) *The obligation is required in order to meet a federal or state*  
2 *matching funds requirement in which federal or state funds have*  
3 *already been committed, and is specific to the project requiring*  
4 *the obligation.*

5 (B) *The obligation is required in order to meet the requirements*  
6 *for the expenditure of a local general obligation bond approved*  
7 *by the voters.*

8 (C) (i) *The obligation is required to complete a project specific*  
9 *to critical public infrastructure that is in, or provides benefit to,*  
10 *the project area of the former redevelopment agency and the*  
11 *evidence of the benefit to the community in proceeding with the*  
12 *obligation substantially outweighs the resulting delay in the*  
13 *distribution of tax increment to the impacted taxing entities.*

14 (ii) *For purposes of this subparagraph, “critical public*  
15 *infrastructure” does not include any of the following:*

16 (I) *An automobile dealership that will be or is on a parcel of*  
17 *land that has not previously been developed for urban use.*

18 (II) *A development project or business that, either directly or*  
19 *indirectly, acquires, constructs, improves, rehabilitates, or replaces*  
20 *property that is or would be used for a golf course or for a*  
21 *racetrack, speedway or other racing venue.*

22 (III) *A development project or business that acquires, constructs,*  
23 *improves, rehabilitates, or replaces property that is or would be*  
24 *used for a stadium, coliseum, arena, ballpark or other sports*  
25 *facility that is intended for use by a professional sports franchise.*

26 (IV) *A development project or business that, either directly or*  
27 *indirectly, acquires, constructs, improves, rehabilitates, or replaces*  
28 *property that is or would be used for gambling or gaming of any*  
29 *kind whatsoever, including, but not limited to, casinos, gaming*  
30 *clubs, bingo operations, or any facility in which banked or*  
31 *percentage games, any form of gambling device, or lotteries, other*  
32 *than the California State Lottery, are or will be played.*

33 (V) *A development project or business, either directly or*  
34 *indirectly, acquires, constructs, improves, rehabilitates, or replaces*  
35 *property that is or would be used for retail, entertainment, or other*  
36 *private purpose unrelated to public works, such as bridges, parks,*  
37 *roads, municipal buildings, dams, railroads, schools, hospitals,*  
38 *and other long-term, public physical assets and facilities.*

39 SEC. 3. *This act is an urgency statute necessary for the*  
40 *immediate preservation of the public peace, health, or safety within*



1 the meaning of Article IV of the Constitution and shall go into  
2 immediate effect. The facts constituting the necessity are:  
3 In order to provide guidance to the successor agencies on the  
4 use of bond proceeds, it is necessary for this act to take effect  
5 immediately.

O